

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 2145

To authorize the Secretary of Agriculture to determine which programs of the Department of Agriculture are eligible for State mediation and to certify States to administer mediation for the programs, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 24 (legislative day, MAY 16), 1994

Mr. CONRAD (for himself, Mr. DORGAN, Mr. HEFLIN, Mr. DASCHLE, Mr. HARKIN, Mr. GRASSLEY, Mr. WELLSTONE, and Mr. FEINGOLD) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

MAY 25 (legislative day, MAY 16), 1994

Committee discharged

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## A BILL

To authorize the Secretary of Agriculture to determine which programs of the Department of Agriculture are eligible for State mediation and to certify States to administer mediation for the programs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

### 3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Agricultural Mediation  
5 Act of 1994”.

1 **SEC. 2. DEFINITIONS.**

2 As used in this Act:

3 (1) AGRICULTURAL MEDIATION PROGRAM.—

4 The term “agricultural mediation program” means a  
5 program administered by a State (in accordance  
6 with this Act) for the mediation of disputes arising  
7 under an eligible Department program.

8 (2) DEPARTMENT.—The term “Department”  
9 means the United States Department of Agriculture.

10 (3) ELIGIBLE DEPARTMENT PROGRAM.—The  
11 term “eligible Department program” means a pro-  
12 gram of the Department under which disputes may  
13 be resolved under an agricultural mediation pro-  
14 gram, as determined by the Secretary under section  
15 4.

16 (4) MEDIATION.—The term “mediation” means  
17 a process of negotiation in which an impartial third  
18 party attempts to assist parties in negotiating a mu-  
19 tually agreeable resolution of a dispute.

20 (5) SECRETARY.—The term “Secretary” means  
21 the Secretary of Agriculture.

22 **SEC. 3. PURPOSES.**

23 The purposes of this Act are to provide the Secretary  
24 with the authority to—

25 (1) determine which programs of the Depart-  
26 ment are eligible for mediation, which has proven to

1 be a valuable means of alternative dispute resolu-  
2 tion; and

3 (2) certify States to administer mediation for  
4 eligible Department programs.

5 **SEC. 4. DETERMINATION OF ELIGIBLE DEPARTMENT PRO-**  
6 **GRAMS.**

7 (a) DETERMINATION.—The Secretary is authorized  
8 to determine which programs of the Department are eligi-  
9 ble Department programs.

10 (b) DETERMINATION FACTORS.—In making the de-  
11 termination, the Secretary shall consider—

12 (1) the complexity and technical nature of the  
13 Department program;

14 (2) the protection of the interests of program  
15 participants; and

16 (3) whether mediation as a form of dispute res-  
17 olution would achieve fairness for program partici-  
18 pants and the Department.

19 **SEC. 5. NOTICE OF ELIGIBLE DEPARTMENT PROGRAMS.**

20 Not later than 120 days after the date of enactment  
21 of this Act, the Secretary shall publish in the Federal Reg-  
22 ister—

23 (1) notice of which programs of the Department  
24 are eligible Department programs; and

1           (2) a solicitation to States to apply for certifi-  
2           cation to administer agricultural mediation programs  
3           for the eligible Department programs.

4   **SEC. 6. CERTIFICATION OF STATES TO ADMINISTER AGRICULTURAL MEDIATION PROGRAMS.**  
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6           (a) IN GENERAL.—For purposes of this Act, a State  
7           is qualified to administer an agricultural mediation pro-  
8           gram if the Secretary certifies that a proposal by the State  
9           to administer the program satisfies the requirements of  
10          this section.

11          (b) DETERMINATIONS.—The Secretary shall deter-  
12          mine whether a State is qualified to administer an agricul-  
13          tural mediation program of the State not later than 30  
14          days after the Secretary receives from the State a descrip-  
15          tion of the proposed agricultural mediation program and  
16          a statement certifying that the State has met all of the  
17          requirements of subsection (c).

18          (c) CERTIFICATION REQUIREMENTS.—To obtain cer-  
19          tification to administer an agricultural mediation pro-  
20          gram, a State must—

21                (1) demonstrate a need for the agricultural me-  
22                diation program within the State based on the agri-  
23                cultural activity, and the number of participants, in-  
24                volved;

1           (2) ensure that mediation services will be of-  
2           ferred to all individuals who are or may be eligible to  
3           participate in the eligible Department program;

4           (3) ensure that the agricultural mediation pro-  
5           gram is administered by the State or an authorized  
6           agent of the State;

7           (4) provide for the training of mediators;

8           (5) ensure that confidentiality of the mediation  
9           sessions will be maintained; and

10          (6) ensure that persons and agencies of the De-  
11          partment affected by the program, as determined by  
12          the Secretary, receive adequate notification of the  
13          agricultural mediation program.

14   **SEC. 7. RECERTIFICATION.**

15          (a) IN GENERAL.—To retain certification to admin-  
16          ister an agricultural mediation program, a State must—

17               (1) recertify the program in a manner pre-  
18               scribed by the Secretary; and

19               (2) provide affected agencies of the Department  
20               with all information required by the Secretary (in  
21               consultation with interested parties) on the disputes  
22               mediated under the program, subject to the con-  
23               fidentiality requirements of Federal and State law.

1 (b) PUBLIC AVAILABILITY.—The information de-  
2 scribed in subsection (a)(2) shall be made available by the  
3 Secretary to the public.

4 **SEC. 8. MATCHING GRANTS TO STATES.**

5 (a) IN GENERAL.—Subject to the availability of ap-  
6 propriations, the Secretary shall provide matching grants  
7 to a State for the administration and operation of an agri-  
8 cultural mediation program.

9 (b) AMOUNT.—Subject to the availability of appro-  
10 priations, the Secretary may pay up to 70 percent of the  
11 cost of the administration and operation of an agricultural  
12 mediation program by a State.

13 (c) USE.—A State that receives a matching grant to  
14 administer an agricultural mediation program under this  
15 section may use the financial assistance only to administer  
16 and operate the program.

17 (d) PENALTY.—If the Secretary determines that a  
18 State has not complied with subsection (c), the State shall  
19 not be eligible for additional matching grants under this  
20 section.

21 **SEC. 9. ADMINISTRATION.**

22 (a) INFORMATION.—If the Secretary receives a re-  
23 quest from a person for information or analysis that is  
24 relevant to a mediated dispute (as determined by the Sec-

1 retary), the Secretary shall provide the information or  
2 analysis to the person.

3 (b) PARTICIPATION BY SECRETARY.—Subject to sub-  
4 section (c), the Secretary shall participate in each agricul-  
5 tural mediation program established under this Act.

6 (c) MEDIATION NONBINDING ON THE SECRETARY.—  
7 The Secretary shall not be bound by a decision or nego-  
8 tiated agreement resulting from mediation conducted  
9 under an agricultural mediation program if the Secretary  
10 has not agreed to the decision or agreement.

11 **SEC. 10. REGULATIONS.**

12 The Secretary shall issue regulations to carry out this  
13 Act not later than 120 days after the date of enactment  
14 of this Act.

15 **SEC. 11. CONSTRUCTION.**

16 The authority provided by this Act is in addition to,  
17 and in no way affects, the authority provided under title  
18 V of the Agricultural Credit Act of 1987 (7 U.S.C. 5101  
19 et seq.).

20 **SEC. 12. CONFORMING AMENDMENTS.**

21 (a) WAIVER OF FARM CREDIT MEDIATION RIGHTS  
22 BY BORROWERS.—Section 4.14E of the Farm Credit Act  
23 of 1971 (12 U.S.C. 2202e) is amended by striking “the  
24 agricultural loan” and inserting “an agricultural”.

1 (b) WAIVER OF FMHA MEDIATION RIGHTS BY BOR-  
2 ROWERS.—Section 358 of the Consolidated Farm and  
3 Rural Development Act (7 U.S.C. 2006) is amended by  
4 striking “the agricultural loan” and inserting “an agricul-  
5 tural”.

6 **SEC. 13. AUTHORIZATION OF APPROPRIATIONS.**

7 (a) IN GENERAL.—There are authorized to be appro-  
8 priated to carry out this Act \$7,500,000 for each of fiscal  
9 years 1995 through 1998.

10 (b) FEES.—The Secretary is authorized, subject to  
11 the availability of funds appropriated in advance, to ex-  
12 pend such funds as are necessary to pay any fees charged  
13 to an agency that administers an agricultural mediation  
14 program for mediating individual disputes to which the  
15 agency is a party.

16 **SEC. 14. TERMINATION OF AUTHORITY.**

17 The authority provided by this Act shall terminate  
18 on September 30, 1998.

19 **SEC. 15. EFFECTIVE DATE.**

20 (a) IN GENERAL.—Except as provided in subsection  
21 (b), this Act and the amendments made by this Act shall  
22 become effective on the date of enactment of this Act.

23 (b) TRANSITIONAL PROVISION.—During the 2-year  
24 period beginning on the date of enactment of this Act, a  
25 State that (on the date of enactment of this Act) is cer-



1   tified to carry out an agricultural loan mediation program  
2   under title V of the Agricultural Credit Act of 1987 (7  
3   U.S.C. 5101 et seq.) shall be considered certified (under  
4   section 6 of this Act) to administer any agricultural medi-  
5   ation program.

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